



# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



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LINDA S. ADAMS  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

ARNOLD SCHWARZENEGGER  
GOVERNOR

Certified Mail: 7003 1680 0000 6167 5561

September 23, 2008

Mr. Val F. Siebal, Director  
County of Sacramento  
Environmental Management Department  
8475 Jackson Road, Suite 240  
Sacramento, California 95826

Dear Mr. Siebal:

The California Environmental Protection Agency (Cal/EPA), Office of Emergency Services, Department of Toxic Substances Control, and the State Water Resources Control Board conducted a program evaluation of the Sacramento County Environmental Management Department Certified Unified Program Agency (CUPA) on August 12 and 13, 2008. The evaluation was comprised of an in-office program review and field oversight inspections by State evaluators. The evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff. The Summary of Findings includes identified deficiencies, a list of preliminary corrective actions, program observations, program recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that Sacramento County Environmental Management Department's program performance meets or exceeds standards.

Cal/EPA also noted during this evaluation that Sacramento County Environmental Management Department has worked to bring about a number of local program innovations, including an effective enforcement program with consistent application of the administrative enforcement order process across all Unified Program elements. The Sacramento County Environmental Management Department also has an exceptional education and outreach program and an outstanding enforcement revenue credit program. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program web site to help foster a sharing of such ideas statewide.

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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at [jbohon@calepa.ca.gov](mailto:jbohon@calepa.ca.gov).

Sincerely,

[Original signed by Don Johnson]

Don Johnson  
Assistant Secretary  
California Environmental Protection Agency

Enclosure

cc/Sent via Email:

Mr. Dennis Green, Chief  
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cc/Sent via Email:

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# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

Enclosure



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## **CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS**

### **CUPA: SACRAMENTO COUNTY ENVIRONMENTAL MANAGEMENT DEPARTMENT**

**Evaluation Dates: August 12 and 13, 2008**

#### **EVALUATION TEAM**

**Cal/EPA:** Jennifer Lorenzo  
**OES:** Jeffrey Tkach  
**SWRCB:** Sean Farrow  
**DTSC:** Frederick Thomas

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. Questions or comments can be directed to Jennifer Lorenzo at (916) 327-9560.

	<b><u>Deficiency</u></b>	<b><u>Corrective Action</u></b>
<b>1</b>	The CUPA has not submitted an annual California Accidental Release Prevention (CalARP) program Self-Audit in compliance with all components of California Code of Regulations title 19, section 2780.5.  <b>CCR, Title 19, Section 2780.5 [OES]</b>	This deficiency was corrected on August 20, 2008.  The CUPA developed a CalARP performance audit report for fiscal year 2007/2008.
<b>2</b>	The CUPA has not maintained the state mandated inspection frequency for its CalARP facilities within the last three fiscal years. Seven of 44 CalARP facilities have not been inspected within the last three fiscal years.  <b>CCR, Title 19, Section 2775.3 [OES]</b>	This deficiency was corrected on September 12, 2008.  The CUPA inspected its remaining CalARP facilities.

**CUPA Representative**

DENNIS GREEN  
(Print Name)

Original signed  
(Signature)

**Evaluation Team Leader**

JENNIFER L. LORENZO  
(Print Name)

Original signed  
(Signature)

## **PROGRAM OBSERVATIONS AND RECOMMENDATIONS**

*The observations provided in this section address activities that are not specifically required of the CUPA by statute or regulation. The recommendations, if any, are provided for continuous improvement and it is the CUPA's decision whether or not to follow the recommendations.*

1. **Observation:** To improve the quality of inspections completed at agricultural facilities by the County Agricultural Commissioner's (CAC) Office, the CUPA increased its frequency of ride-alongs with the CAC's staff to QA/QC inspections.

**Recommendation:** Cal/EPA encourages the CUPA to continue its ride-alongs with the CAC's staff to improve the quality of the inspections.

2. **Observation:** One invoice for a new underground storage tank (UST) facility, dated June 25, 2008, showed that the CUPA was undercharging the state surcharge for the UST program. The CUPA had billed the UST state surcharge per facility and not per tank. After an investigation, the CUPA concluded that this problem was due to the recent change to a new database (Envision Connect), since invoices from the previous fiscal years of (then) new and existing UST facilities were billed correctly. Further investigation revealed that other invoices recently generated during the current fiscal year (2007/2008) showed that only new UST facilities were undercharged the UST state surcharge.

**Recommendation:** Cal/EPA recommends that the CUPA remedy the computer database problem. The CUPA is encouraged to verify that this fiscal year's invoices are correct and apply the appropriate surcharge for those that have been undercharged.

3. **Observation:** The CUPA has an informative Web site that contains various useful resources for the public community. Materials available include hazardous materials forms, including renewals for annual certification; checklist requirements for UST installs, upgrades or repairs; clean up guidelines for meth labs; CalARP program registration form; comprehensive CUPA inspection checklists for all program elements; return to compliance forms; quarterly hazardous materials (compliance assistance) bulletins; the CUPA's Inspection and Enforcement (I&E) Program Plan; and the CUPA's area plan. The CUPA's inspection reports and I&E Program Plan have been widely distributed and copied by other CUPAs.

4. **Observation:** The CUPA's I&E Program Plan details inspection frequencies. Two categories of facilities (photographic waste and third party oil change generators) list inspection frequencies that are inconsistent with those in the self-audit.

**Recommendation:** DTSC recommends that the I&E Program Plan should be updated to reflect current inspection frequencies for the described generators.

5. **Observation:** The CUPA inspector, Mr. Matthew Mulcahy, conducted the UST site inspection on August 8, 2008, in a thorough and professional manner. His attention to detail and knowledge of code and regulations resulted in an excellent inspection. The only note of concern is that Mr. Mulcahy did not introduce himself and ask for permission to conduct the inspection.

**Recommendation:** Prior to starting an inspection, SWRCB recommends that the CUPA inspector introduce himself to the facility management and let them know what is going to happen during the

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inspection. Although the inspection was scheduled in advance, the CUPA inspector should also ask for permission to inspect.

- 6. Observation:** The CUPA's inspection checklists do not provide a place to note an owner's or facility representative's consent to inspect the facility. However, the CUPA's Notice to Comply form has a consent statement.

**Recommendation:** The CUPA is encouraged to provide a place for consent to inspect on all inspection reports as recommended on the May 2005 "Inspection Report Writing Guidance for Unified Program Agencies," which may be found at <http://calepa.ca.gov/CUPA/Documents/2005/InspectionRpt.pdf>.

- 7. Observation:** The CUPA has a comprehensive checklist for conducting UST inspections. However, the SWRCB noted that the inspection form does not identify Significant Operational Compliance (SOC) items or provide for a summary of these items for tracking purposes.

**Recommendation:** Provide a means for determining SOC compliance during the inspection. Otherwise, keep up the good work.

- 8. Observation:** The CUPA inspectors all have access to and routinely use a camera to document violations at regulated facilities.

**Recommendation:** The CUPA is encouraged to continue to use cameras as they are useful to document violations and the conditions at facilities.

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**EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION**

1. The Sacramento County CUPA has an effective and aggressive enforcement program with its consistent application of the administrative enforcement order (AEO) process across all program elements. Additionally, the CUPA has a systematic automated process for minor violation follow-up and enforcement and tying delinquent accounts to enforcement.

Approximately 400 AEOs have been issued within the past 5 years. In addition, the CUPA does not discriminate in its issuance of AEOs; the CUPA has issued AEOs against all types of businesses, including private and governmental facilities. The following are examples:

**1-Day Paint & Body Centers, Inc. (Hazardous Waste Generator)**

This company has two Sacramento locations. In late August 2007, as the result of a routine inspection, the CUPA discovered that the 1-Day Paint & Body store located on Watt Avenue in Sacramento was illegally disposing of paint sanding dust into a solid waste dumpster. The material was sampled and a lab analysis determined it to be a hazardous waste. In addition, several minor violations were also noted including some that were observed on a previous inspection (Class 2 violations). Due to the results of the findings at the Watt Avenue location, 1-Day Paint's other location on Sproule Avenue was also inspected with similar results.

As a result, an AEO was issued for the Class 1 and Class 2 violations. A settlement was reached and 1-Day Paint & Body agreed to pay a fine of \$200,000 to correct their disposal practices and install Eurovac Systems for both shops to better contain used paint sanding dust.

**Thermal Roof Systems (Hazardous Materials Business Plan)**

In February of 2008, a Sacramento County Public Works crew reported a milky white substance in Florin Creek, a local small stream. Sacramento County CUPA Incident Response staff traced the substance back to the Thermal Roof Systems facility location on Florin Perkins Road in Sacramento. The CUPA determined that the company had used its own product Permashield to treat its roof. However a significant rain event had occurred apparently before the sealant had fully cured resulting in a run-off into the storm drain system. Upon further investigation, it was discovered that the company was storing Permashield and Isocyanate in quantities exceeding regulatory threshold limits.

An AEO was issued on April 1, 2008 for violations that included:

- a. Failure to notify the required agencies upon the release of a hazardous substance;
- b. Illegal disposal of a hazardous waste;
- c. Operating without a valid Consolidated Hazardous Materials Permit; and
- d. Failure to complete a Hazardous Materials Business Plan.

Thermal Roof Systems declined their option to appeal and submitted a complete Hazardous Materials Business Plan. The company also paid a penalty of \$8,000 as part of a settlement agreement.

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**Chem Quip, Inc. (Cal-ARP)**

During a routine Risk Management Plan (RMP) inspection conducted in February 2008, Sacramento County CUPA identified that the facility's RMP and Hazard Review had not been updated within the required five-year time frame. The following violations (along with other minor violations) were cited at the time of inspection:

- a. Failure to complete and submit an RMP every five years (CCR Title 19, Section 2745.10) and
- b. Failure to update the hazard review at least once every five years (CCR Title 19, Section 2755.2 (f)).

Chem Quip, Inc., did not return to compliance within the stated correction timeframe, and the Sacramento County CUPA sent a show cause letter to the facility in April 2008 indicating the pending issuance of an AEO. Chem Quip, Inc., did not respond and an AEO was issued in June which imposed a penalty of \$48,712 with an offered settlement amount of \$11,000. Chem Quip, Inc., hired legal representation and notified the Sacramento County CUPA of their intent to file a Notice of Defense and requested a hearing before the State Administrative Law Judge. After speaking with the Sacramento County CUPA regarding the case, Chem Quip, Inc., decided to pay the settlement offer amount of \$11,000 on June 25, 2008. They also submitted the required updates and are now in compliance.

**State of California Department of General Services (DGS) (Underground Storage Tanks)**

In November and December of 2007, the Sacramento County CUPA conducted a series of UST inspections at five buildings in downtown Sacramento that are owned by the State of California. All sites had a single UST used to provide fuel for the building's back-up-generator. Multiple violations were found at all sites. The more serious violations are listed below:

- a. State Library Courts Building, 914 Capitol Mall
  - Failure to conduct secondary containment testing every three years.
- b. Department of Health Services Building, 714 P Street
  - Failure to maintain monitoring equipment such that the equipment is capable of detecting a leak at the earliest possible opportunity. At the time of inspection, the monitoring system was in alarm due to damaged wires.
- c. Paul R. Bonderson Office Building, 901 P Street
  - Failure to maintain monitoring equipment such that the equipment is capable of detecting a leak at the earliest possible opportunity. At the time of inspection, the annular sensor was located three inches from the bottom of the tank.
  - The piping sump failed the SB 989 test and the transition sump was not tested. No retests were ever conducted.
- d. Department of General Services Building, 1416 9<sup>th</sup> Street.
  - Failure to maintain monitoring equipment such that the equipment is capable of detecting a leak at the earliest possible opportunity. At the time of inspection, the sensors in the piping and outside transition sumps were sitting in approximately six inches of water and the monitoring system was in alarm.



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- The secondary pipe had failed the SB 989 test. No retest was ever conducted.
- e. State Capitol Building, 10<sup>th</sup> Street/Capitol Mall
  - Failure to maintain monitoring equipment such that the equipment is capable of detecting a leak at the earliest possible opportunity. At the time of inspection, the sensors in the piping and fill sumps were sitting in approximately 30 gallons of water and the monitoring system was in alarm. The system had been in alarm for almost a year.
  - Failure to conduct annual monitoring certification.
  - Failure to conduct secondary containment testing every three years.

After initially indicating its intent to appeal the orders that were issued relating to the buildings listed in *a* through *e* above, State DGS agreed to settle the cases for a total of \$84,000. All facilities with the exception of the Department of General Services Building at 1416 9<sup>th</sup> Street are in compliance. This other facility, which has yet to obtain compliance, is currently undergoing repair work in anticipation of retesting this fall.

The State DGS did not initially respond to the AEO issued relating to the State Capitol Building. As a result, the Sacramento County CUPA sought and obtained a Superior Court order requiring payment of \$93,350. Subsequently, a claim was filed against the State for that amount. Follow-on negotiations occurred and the case was settled with a required penalty payment from the State DGS of \$80,000. The State Capitol Building is in compliance.

Total penalties paid were \$164,000.

In addition, the CUPA has recently conducted comprehensive inspections at Georgia Pacific Chemicals that resulted in the issuance of an AEO requiring the payment of over \$3.5 million in penalties. Settlement discussions are underway but the filed AEO penalty represents the largest administrative fine handed down unilaterally by a local CUPA.

2. The Sacramento County CUPA continues to implement its enforcement revenue credit program which was initiated on July 1, 2005. This is a positive incentive for businesses to “play by the rules” as the program applies credits to annual fee invoices for facilities that have achieved an acceptable level of compliance. The credits are derived from enforcement revenue collected, less costs to implement enforcement activities. Approximately \$1,000,000 has been returned to compliant facilities over the past four years. The program has been enthusiastically embraced by businesses and adds credibility to the CUPA’s overall enforcement program.
3. The Sacramento County CUPA and its staff are actively involved with various organizations, workgroups, technical advisory groups, and committees, including the UST TAG, the CUPA Forum Board and the Unified Program Administration and Advisory Group. The CUPA’s involvement with the development of the I& E guidance has also been commendable. The CUPA has also been active participants (such as coordinators, trainers, or speakers) at various symposiums and conferences such as the Continuing Challenge Conference and Cal-CUPA conferences. The CUPA is also an active participant in the Sacramento County Environmental Crimes Task Force, which holds monthly meetings.
4. The Sacramento County CUPA has a comprehensive two-part business plan review process. Business plans and renewal forms undergo a “completeness” review (checking for completeness). Incomplete

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documents are returned to facilities with a 30-day deadline and a violation code is entered into the Envision database for tracking purposes. Completed business plans and renewals are electronically scanned for staff and general public access, and for transmittal to fire departments. CUPA staff (environmental specialists) performs technical reviews as part of on-site inspections and note any required changes. Delinquent facilities are informed by certified mail that they have been granted a 30-day extension period. Failure to appropriately respond to the extension results in the issuance of an AEO.

5. The Sacramento County CUPA has an excellent partnership with the Solid Waste Local Enforcement Agency. The Sacramento County Environmental Management Department has established a new program whereby Sacramento area solid waste facilities will notify the CUPA whenever a hauler has attempted to illegally dispose of hazardous waste at their site. This partnership has given these facilities an enforcement option to preclude roadside dumping of this material near their locations. Almost immediately after inception in fiscal year 2006/2007, two illegal haulers were caught.
6. Sacramento County CUPA has an exceptional education and outreach program. The CUPA conducts county-wide surveys for facilities that may potentially be regulated under the CUPA program. The CUPA develops multiple issue-specific compliance and quarterly general program bulletins. The CUPA also holds Sacramento Environmental Commission presentations which are aired on cable television. Sacramento County CUPA also organizes bi-monthly hazardous materials business plan workshops.

In addition, the Sacramento Business Environmental Resource Center (BERC), which was established in 1993, provides free assistance to help Sacramento County businesses understand and comply with federal, state, and local environmental regulations.

7. The Sacramento County CUPA assisted with writing the methamphetamine lab cleanup legislation (Assembly Bill 1078), which was chaptered in state law on October 6, 2005, and developing associated documents as state templates.